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TO RUEHC/SECSTATE WASHDC IMMEDIATE 4535
INFO RUEHC/DEPT OF LABOR WASHDC PRIORITY
RUEHBO/AMEMBASSY BOGOTA 5670
RUEHCV/AMEMBASSY CARACAS 1776
RUEHLP/AMEMBASSY LA PAZ JUN LIMA 0641
RUEHGL/AMCONSUL GUAYAQUIL 0599
RUEHGV/USMISSION GENEVA 0337

UNCLAS QUITO 001399

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DEPT FOR WHA/AND, WHA/PPC, EB, AND DRL/IL. USDOL FOR CARLOS ROMERO. GENEVA FOR JOHN CHAMBERLIN. PLEASE PASS USTR FOR V. LOPEZ AND B. HARMON.

E.O. 12958: N/A

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SUBJECT: CONGRESS PASSES SUBCONTRACTING LAW IMPROVING
TEMPORARY WORKER BENEFITS; BROADER REFORM AT RISK

¶1. (SBU) Summary: Congress passed a law on May 30 to regulate subcontracting, setting a maximum 50 percent of workers that can be hired through this mechanism. Workers can be subcontracted for any function. Employers must provide subcontracted workers with profit sharing and contributions to social security and reserve funds, but subcontracted workers can be fired at will. The President still must approve the law by June 16 and subcontracting companies will likely push for a veto. Meanwhile, the Chamber of Industries has withdrawn its representative from the tripartite National Labor Council, setting back prospects for tripartite labor code reforms. End Summary.

Contents of the Law

¶2. (U) On May 30, Congress passed a subcontracting law to regulate this hiring mechanism, superseding an October 2004 presidential decree on subcontracting which set a maximum 75 percent for subcontracted workers. The law passed with 55 votes from the Democratic Left (ID), UDC, PRE, PSP, Pachakutik, MPD and Socialist parties and some independents. Banana magnate Alvaro Noboa's PRIAN party and the Social Christian Party voted against the law.

¶3. (U) According to congressional sources, the law sets a 50 percent cap on the percentage of workers a company can hire through subcontracting. During a company's start-up phase (up to 270 days) the 50 percent cap would not be applied. The law states that subcontracting can be used for all activities of a company, including permanent, occasional, and hourly work. The hiring of persons under 18 years of age as subcontracted workers would be prohibited.

¶4. (U) Subcontracting companies will be required to have a minimum of \$10,000 capital in order to register with the Ministry of Labor. This is intended to prevent ghost companies. The Ministry of Labor will need to set up a special inspections system to regulate subcontracting and implement the law. According to the Ministry of Labor, 1,048 out of 2,156 subcontracting companies in the country have registered with the MOL as required by the 2004 decree. (Comment: We question whether the GOE will be any more successful in getting subcontractors to register under the proposed system. End Comment.) It is estimated that there are approximately one million subcontracted workers in

Ecuador.

Unions Happy, Employers Hope to Block

¶15. (U) Labor union leader Mesias Tatamuez said he was pleased with the passage of the law as it requires that subcontracted workers receive their reserve funds, be affiliated with social security, and receive company profit sharing. The press reported however that some subcontracting company representatives would seek a partial presidential veto of the law and would challenge its constitutionality. Minister of Labor Galo Chiriboga is expected to argue for the law's passage as is.

Alleged Corruption Could Block Law

¶16. (SBU) In a June 1 meeting, Andres Paez, the president of Congress' Labor Commission, told us an atmosphere of consensus had prevailed in the tripartite National Labor Council during discussions of the law earlier this year. Only two articles of the 22 article bill were sent to Congress without consensus. Once in Congress, however, Paez alleged subcontracting companies had spent \$800,000 to block the law. He expected the same companies to spend up to \$1 million to convince the President to veto the law. The President was presented the law and must make a decision on whether to veto it by July 16 before the law can be published in the official register.

One Step Forward; One Step Back

¶17. (U) According to June 3 press reports, President of the Guayaquil Chamber of Industries Alberto Dassum has withdrawn the National Chamber of Industries' representative to the National Labor Council. In a letter to the Ministry of Labor, Dassum said he withdrew the representative not over the subcontracting law, but rather because the chamber disagreed with the Council's decision to raise the minimum wage by \$10 earlier this year and the recent passage of a law to increase the employment of persons with disabilities.

Comment

¶18. (SBU) The passage of the subcontracting law strengthens benefits and protections for subcontracted workers and represents an improvement over the previous decree. It also provides employers with greater flexibility to hire and fire temporary workers. Should President Palacio sign it, implementation of the law could prove difficult due to the Ministry of Labor's limited resources. Meanwhile, business-labor dialogue and consensus on broader reform is now jeopardized by the Chamber of Industries' withdrawal from the National Labor Council, and could signal a reluctance by business leaders to consider any further labor reforms without a real prospect for an FTA with the U.S.

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